

Serial No. 10/500,565

PATENT  
Docket No. 70292-010800**REMARKS**

Examination of the present application is to be based on claims 1-27 enclosed above, for a total of twenty-seven claims.

The Office Action dated April 20, 2005, has been carefully examined. The Applicants thank the Examiner the useful clarifications provided during the interview of July 19, 2005.

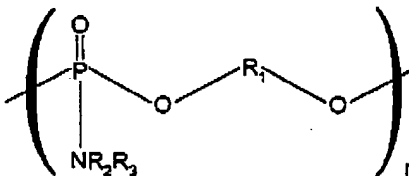
**I. Claim Rejections**

I.

In Section 1 of the Action, the Examiner argues that claims 1-27 of the present application conflict with claims 1-26 of Application 10/499,898 ('898 application) under 37 C.F.R. 1.78(b). The Applicants disagree for the reasons that follow.

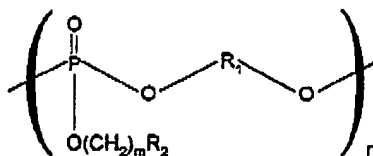
The Applicant has reviewed independent claims 1 and 8 of the present application ('565 application) in comparison with independent claims 1, 6 and 8 of the '898 application and point out the following.

Independent claims 1 and 8 of the present application include as a feature the monomeric unit of the following Formula I ('565 Formula I).



'565 Formula I

Independent claims 1, 6 and 8 of the '898 application include as a feature the monomeric unit of the following Formula I ('898 Formula I).



'898 Formula I

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The Applicants draw the Examiner's attention to the linkage between a phosphorus in the backbone and a nitrogen in the side chain of the '565 Formula I (phosphoramidate linkage) and the linkage between the a phosphorus in the backbone and an oxygen the side chain of the '898 Formula I (phosphoester linkage). The Applicants submit that the monomeric unit of the '565 Formula I is chemically different from the monomeric unit of the '898 Formula I at least because of the different linkages between the backbone and the side chains in the two formulas. The wording "*phosphoramidates*" referred to the polymer including the '565 Formula I, is also specifically recited in claim 1 of the '565 application.

As a consequence, the Applicants submit that the subject matter of claims 1-27 of the present application differs from the subject matter of claims 1-26 of the '898 application, at least because of the above mentioned differences between the monomeric unit of '565 Formula I and the monomeric unit of '898 Formula I.

In view of the above, the Applicants submit that the claims 1-27 of the present application do not conflict with claims 1-27 of the '898 application in the sense of 37 CFR 1.78(b) and that the Examiner rejection has been consequently overcome.

Should the Examiner disagree with the Applicants, the Examiner is respectfully invited to specifically indicate which claims of the '898 application and '565 application that the Examiner believes to be in conflict and specifically point out the conflicting subject matter claimed in each of the indicated claims.

## II. Claim Rejections – Statutory Double Patenting

2.

In Sections 2 and 3 of the Action, the Examiner provisionally rejects claims 1-27 under 35 USC §101 as claiming the same invention as that of claims 1-26 of copending Application 10/499,898 ('898 application).

The Applicants have already showed that the subject matter of claims 1-27 of the present application differs from the subject matter of claims 1-26 of the '898 application (see section I above) and accordingly submit that the Examiner provisional rejection has been overcome.

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Should the Examiner disagree with the Applicants, the Examiner is respectfully invited to specifically indicate which claims of the '898 application and '565 application that the Examiner believes to claim the same invention and specifically point out the same invention claimed in each of the indicated claims.

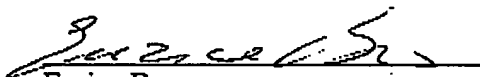
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In view of the above, it is submitted that this application is now in good order for allowance, and such early action is respectfully requested. Should matters remain that the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone the Applicants' undersigned attorney at (310) 586-7703.

This response is being timely filed and no fee is believed due. However, if Applicants are mistaken, the Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, now or in the future, or credit any overpayment to Account No. 50-2638. Please ensure that the Attorney Docket Number 70292-010800 when charging any payments or credits in connection with this application.

Respectfully submitted,

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